

## Withdrawal of taper relief – selling your business James Hutchinson, October 2007

On 9 October 2007, the Chancellor delivered his first Pre-Budget Report. From 6 April 2008, all disposals made by individuals, trustees and personal representatives will be subject to a single rate of charge to capital gains tax (“CGT”) of 18%.

### Current 10% effective rate of CGT

At present, an individual is chargeable to CGT at the rates for income tax on savings income (10%, 20% or 40% in the tax year 2007 – 08), treating his or her net chargeable gains (after deductions of allowable losses, taper relief, Annual Exempt Amount etc) as the top slice of his or her income. Taper relief permits an individual to reduce the amount of the gain chargeable to CGT (and hence reduce the effective rate of tax payable on the gain). The amount of relief available depends on the length of time an asset has been held and whether the asset is classified as a business or non-business asset for taper relief purposes. For example:

- A director of an unlisted company selling 100% of his shares may only be liable to CGT at an effective rate of 10% if he or she has held the shares for two years.

### Proposed 18% rate of CGT

For disposals of shares on or after 6 April 2008 and held over gains coming into charge on or after 6 April 2008, taper relief will no longer be available and the chargeable gain will be liable to CGT at 18% (subject to the deduction of allowable losses, Annual Exempt Amount etc). For example:

- The same director as above selling his shares on or after 6 April 2008 would now be liable to CGT at 18%.

### Impact of changes

The withdrawal of taper relief will be introduced in the Finance Bill 2008. HM Revenue & Customs are consulting with interested parties on the changes and so it is difficult at this stage to know exactly how the withdrawal will be implemented. However, based on the information published to date, we consider that the withdrawal of taper relief will have a direct impact on anyone in the process of, or thinking about, selling their business. In particular:

- **Vendors subject currently to 10% rate of CGT** – consider whether a sale on or before 5 April 2008 will be more profitable than a later sale which will be subject to CGT at 18%.
- **Vendors subject currently to 40% rate of CGT** – consider whether a sale on or after 6 April 2008 will be more profitable than an earlier sale, as the gain will be subject to CGT at 18%.
- **Pressure from purchasers** – in the first few months of 2008, the balance of power is likely to shift from vendors to purchasers as purchasers realise that vendors want to exchange before 6 April. Vendors who were to benefit from the 10% rate of CGT will come under pressure to agree to purchasers’ demands or risk the 18% rate of CGT.

Our view is that the abolition of taper relief will encourage potential vendors, who are considering selling their businesses, to exchange on or before 5 April 2008. Vendors should take steps now to review their sale timetables and obtain financial and legal advice. A delay will give purchasers the upper hand in negotiations and may result in “take it or leave it” offers in March and April 2008.

If you would like further information on the withdrawal of taper relief or selling your business, please contact:

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